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December 9, 2013

VIA ECF AND EMAIL

Hon. Katherine Polk Failla
United States District Court
40 Foley Square
Room 2103
New York, NY 10007

Re: Ragone v. Aetna Life Insurance Company
13 CV 04604(KPF)(KNF)

Dear Judge Failla:

We are counsel to plaintiff in the above-referenced action. We write in opposition to Aetna's December 6, 2013 request to file an opposition brief.

We wrote our brief with the understanding that we were not being provided with the opportunity to respond to Aetna's brief. We, therefore, tried to anticipate Aetna's arguments and respond to them. Aetna no doubt did the same.

Aetna now is crying crocodile tears, indicating that it had no reason to believe that plaintiff would be basing his argument on *CIGNA Corp. v. Amara*, 131 S.Ct. 1866 (2011). Defense counsel, however, is a very experienced ERISA attorney who must have known that when we stated in the November 1, 2013 joint letter that the "Master Contract is not a plan document," that we would be relying on *Amara* and its progeny. They were given fair notice.

Respectfully yours,

A handwritten signature in black ink, appearing to be "SR" or similar initials, written over the typed name "Scott M. Riemer".

Scott M. Riemer

cc: Michael Bernstein, Esq.